

(1) A 12-hour driving limit, provided driving a CMV after having been on duty more than 16 hours is prohibited.

(2) Driving prohibitions for drivers who have been on duty 70 hours in 7 consecutive days or 80 hours in 8 consecutive days.

(f) Age of CMV driver—All CMV drivers must be at least 18 years of age.

(g) Grandfather clauses—States may provide grandfather clauses in their rules and regulations if such exemptions are uniform or in substantial harmony with the FMCSRs and provide an orderly transition to full regulatory adoption at a later date.

(h) Driver qualifications:

(1) Intrastate drivers who do not meet the physical qualification standards in 49 CFR 391.41 may continue to be qualified to operate a CMV in intrastate commerce if the following three conditions are met:

(i) The driver was qualified under existing State law or regulation at the time the State adopted physical qualification standards compatible with the Federal standards in 49 CFR 391.41.

(ii) The otherwise non-qualifying medical or physical condition has not substantially worsened.

(iii) No other non-qualifying medical or physical condition has developed.

(2) The State may adopt or continue programs granting variances to intrastate drivers with medical or physical conditions that would otherwise be non-qualifying under the State's equivalent of 49 CFR 391.41 if the variances are based upon sound medical judgment combined with appropriate performance standards ensuring no adverse affect on safety.

§ 350.343 How may a State obtain a new exemption for State laws and regulations for a specific industry involved in intrastate commerce?

The FMCSA strongly discourages exemptions for specific industries, but will consider such requests if the State submits documentation containing information supporting evaluation of the following 10 factors:

(a) Type and scope of the industry exemption requested, including percentage of industry affected, number of vehicles, mileage traveled, number of companies involved.

(b) Type and scope of the requirement to which the exemption would apply.

(c) Safety performance of that specific industry (*e.g.*, accident frequency, rates and comparative figures).

(d) Inspection information (*e.g.*, number of violations per inspection, driver and vehicle out-of-service information).

(e) Other CMV safety regulations enforced by other State agencies not participating in the MCSAP.

(f) Commodity transported (*e.g.*, livestock, grain).

(g) Similar variations granted and the circumstances under which they were granted.

(h) Justification for the exemption.

(i) Identifiable effects on safety.

(j) State's economic environment and its ability to compete in foreign and domestic markets.

§ 350.345 How does a State apply for additional variances from the FMCSRs?

Any State may apply to the Administrator for a variance from the FMCSRs for intrastate commerce. The variance will be granted only if the State satisfactorily demonstrates that the State law, regulation or enforcement practice:

(a) Achieves substantially the same purpose as the similar Federal regulation.

(b) Does not apply to interstate commerce.

(c) Is not likely to have an adverse impact on safety.

PART 355—COMPATIBILITY OF STATE LAWS AND REGULATIONS AFFECTING INTERSTATE MOTOR CARRIER OPERATIONS

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